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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/017,377

12/14/2001

Amr F. Yassin

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10/30/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/017,377

Applicant(s)

YASSIN ET AL.

Examiner

Michael Van Handel

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 3. NOTE: The applicant has amended claim 1 to include "wirelessly providing broadcast television programming, the broadcast television programming being provided separately from the commercials and including the time slot," "agents," "at least one selected," "locally to the receiver, combining the wirelessly broadcast television programming with the selected commercial," and "so that the commercials appear to be part of the wirelessly broadcast television programming." The applicant has amended claim 11 to include "at least one separate source of wirelessly broadcast television programming and including the time slot," "least one," "the wirelessly broadcast television and," "at least one," "combining the selected commercial with the wirelessly broadcast television programming," and "together with the wirelessly broadcast television programming." The applicant has amended claim 18 to include "at least one," "separately providing wirelessly broadcast television programming including the time slot to the receiver," "agents," "at least one," "combining the selected commercial with the wirelessly broadcast television programming," and "together with the wirelessly broadcast television programming." Thus, the claims raise new issues and require further consideration and/or search.

Regarding claims 2 and 12, the applicant argues that Robinson does not disclose the use of a vault to store a winning bid. The examiner respectfully disagrees. The applicant defines the purpose of the vault as providing "for storage of information about the outcome of each auction (p. 3, paragraph 31)." The examiner fails to find a recitation of "data vaulting" in the applicant's specification. The examiner further notes that Robinson discloses that "whenever a bid is won, a record of the ad and bid amount ... is sent via a TCP/IP socket connection to the server..." This meets the limitation of "storing information related to the commercial having the agent which placed the winning bid in a vault," as currently claimed.

Regarding claim 16, the applicant argues that Zigmond et al. does not disclose delivering an agent with a commercial. The examiner respectfully disagrees. Specifically, the applicant argues that the rules of Zigmond et al. are not an agent. The examiner acknowledges the Webopedia definition of agent, but notes that the applicant's disclosure states that an agent can be "as simple as a fixed bid price, or a more complex computer applet (p. 2, paragraph 24)." The applicant's disclosure also states that the agent includes the "information and/or algorithm for setting the auction bid price for a given commercial time slot (p. 3, paragraph 33)." Therefore, even if the rules of Zigmond et al. are not programs, the examiner maintains that Zigmond et al. discloses a receiver that "is configured to receive the commercial and agent associated therewith simultaneously," as currently claimed.

In support of the Official Notice taken regarding claim 9, the examiner presents Fisher et al. The examiner reminds the applicant that Robinson teaches auctioning off advertising time slots in an Internet environment. Robinson further discloses that there are many approaches to auctioning off a resource which are well-known to practitioners of ordinary skill in the arts of economics and game theory (p. 3, paragraph 44). Fisher et al. discloses holding an Internet-based electronic auction using the "Dutch Auction" approach. Fisher et al. further states that this auction format may be preferred by customers for being the most fair when a plurality of a specific item is being auctioned (col. 5, l. 49-67; col. 6, l. 1-6; col. 9, l. 66-67; & col. 10, l. 1-32). Therefore, the examiner maintains that it is well known within the prior art to use a "Dutch Auction" approach in an electronic auction, such as that taught by Fisher et al. in order to present the customer with the most fair approach when a plurality of a specific item is being auctioned.